

Certificate of Hand Delivery

[X] Pursuant to 37 C.F.R. § 1.6(c), I hereby certify that this paper and all enclosures are being hand delivered to the Commissioner for Patents, Box Missing Parts, Washington, D.C. 20231 on the date indicated below.

Dated: April 17, 2002

Name of Person Certifying: Shari Hall White

Printed Name:

Shari Hall White

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application for:

Lori Jo Lehman et al.

Serial No.: 09/966,982

Filing Date: September 27, 2001

For: NOVEL STRAIN OF STREPTOMYCES
FOR CONTROLLING PLANT DISEASES

Assignee: AgraQuest, Inc.

Examiner: To Be Assigned

Group Art Unit: 1651

RECEIVED

APR 17 2002

OFFICE OF PETITIONS

Via Hand Delivery

BOX MISSING PARTS

Commissioner for Patents

Washington, D.C. 20231

TRANSMITTAL LETTER REGARDING NOTICE OF INCOMPLETE REPLY

Sir:

Applicant received a Notice of Incomplete Reply ("Notice") dated March 13, 2002 requesting Applicant to provide a (1) Declaration executed by Randy McCoy; (2) the surcharge of \$130.00 as set forth in 37 C.F.R. § 1.16; and (3) substitute drawings as set forth in 37 C.F.R. 1.84(e). In response to the Notice, the following documents are submitted via hand delivery on April 17, 2002:

- 1) Return Receipt Postcard;
- 2) Fee Transmittal (1 pg.) *in duplicate*;
- 3) Copy of Notice of Incomplete Reply (2 pgs.);
- 4) Statement of Facts by Carol M. Gruppi Regarding Non-Signing Inventor
Pursuant to 37 C.F.R. § 1.47 (3 pgs.) plus Exhibits A -G;
- 5) Statement of Facts by Connie Tomlinson Regarding Non-Signing Inventor
Pursuant to 37 C.F.R. § 1.47 (2pgs) plus Exhibit A;

- 6) Substitute Drawings (9 sheets); and
- 7) Petition For a Four (4) month extension of time(2 pgs.) *in duplicate*

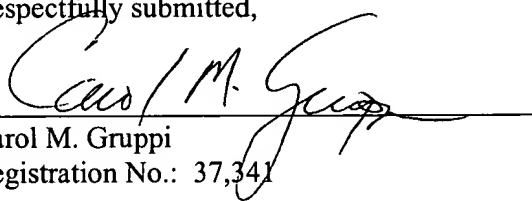
The Notice dated March 13, 2002 requested Applicant to provide a Declaration executed by Randy McCoy. Randy McCoy has refused to sign a Declaration for the above referenced application. Pursuant to 37 C.F.R. § 1.47, Applicant submits herewith two Statements of Facts (as referenced above) to establish the diligent effort made to secure the execution of the declaration by the non-signing inventor, Randy J. McCoy. accordingly, Applicant respectfully requests that the above identified international application be allowed to proceed without the signature of Randy Jay McCoy. Applicant's response to the Notice of Missing Parts dated October 23, 2002 is now complete.

A fee of \$1570.00 (\$1440.00 for the extension of time and \$130 for the surcharge) is believed to be due. An extension of time is requested to provide for timely filing if an extension of time is still required after all papers filed with this communication have been considered. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 50-1189, Billing No. 23893-7180.

DATE: April 16, 2002

Respectfully submitted,

By: _____


Carol M. Gruppi
Registration No.: 37,341

Antoinette F. Konski
Registration No.: 34,202

McCutchen, Doyle, Brown & Enersen, LLP
Three Embarcadero Center, Suite 1800
San Francisco, California 94111
Telephone: (650) 849-4902
Telefax: (650) 849-4800

**FEE TRANSMITTAL
FOR FY 2002**

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT**\$1,570.00****Complete if Known**

Application Number 09/966,982

Filing Date September 27, 2001

First Named Inventor Lori Jo Lehman

Examiner Name Not Yet Assigned

Group Art Unit 1651

Attorney Docket No. AQ 2018.20

RECEIVED**APR 17 2002****OFFICE OF PETITIONS****METHOD OF PAYMENT**

- 1.
- ☒
- The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit
Account
Number

50-1189

Deposit
Account
Name

McCutchen Doyle Brown & Enersen LLP

- ☒
- Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17

☐ Applicant claims small entity status. See 37 CFR 1.27

- 2.
- ☐
- Payment Enclosed:

☐ Check ☐ Credit Card ☐ Money Order ☐ Other**FEE CALCULATION****1. BASIC FILING FEE**

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description	Fee Paid
101	740	201	370	Utility filing fee	
106	330	206	165	Design filing fee	
107	510	207	255	Plant filing fee	
108	740	208	370	Reissue filing fee	
114	160	214	80	Provisional filing fee	

SUBTOTAL (1) (\$)

2. EXTRA CLAIM FEES

Total Claims	Extra Claims	Fee from below	Fee Paid
- 20** =	x	=	\$
Independent Claims	- 3** =	x	=
Multiple Dependent			=

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description
103	18	203	9	Claims in excess of 20
102	84	202	42	Independent claims in excess of 3
104	280	204	140	Multiple dependent claims, if not paid
109	84	209	42	**Reissue independent claims over original patent
110	18	210	9	**Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)*

** or number previously paid, if greater; For reissues, see above.

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description	Fee Paid
105	130	205	65	Surcharge - late filing fee or oath	130.00
127	50	227	25	Surcharge - late provisional filing fee or cover sheet	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for ex parte reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	400	216	200	Extension for reply within second month	
117	920	217	460	Extension for reply within third month	
118	1,440	218	720	Extension for reply within fourth month	1,440.00
128	1,960	228	980	Extension for reply within fifth month	
119	330	219	160	Notice of Appeal	
120	330	220	160	Filing a brief in support of an appeal	
121	280	221	140	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive - unavoidable	
141	1,280	241	640	Petition to revive - unintentional	
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design issue fee	
144	620	244	310	Plant issue fee	
122	130	122	130	Petitions of the Commissioner	
123	50	123	50	Petitions related to provisional applications	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per properties (times number of properties)	
146	740	246	370	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	740	249	370	For each additional invention to be examined (37 CFR § 1.129(b))	
179	740	279	370	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$1,570.00)

SUBMITTED BY

Complete (if applicable)

Name (Print/Type)

Carol M. Gruppi
Antoinette F. KonskiRegistration No.
(Attorney/Agent)37,341
34,202

Telephone

(650) 849-4950

Signature

Date

4/16/02

WARNING: Information on this form may become public. Credit card information should not

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

52076456.1/23893-7180



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/966,982	09/27/2001	Lori Jo Lehman	AQ 2018.20

CONFIRMATION NO. 7317

Antoinette F. Konski
McCutchen, Doyle, Brown & Enersen, LLP
Three Embarcadero Center, 18th Floor
San Francisco, CA 94111

RECEIVED

APR 17 2002

OFFICE OF PETITIONS

FORMALITIES LETTER



OC00000007628607

Date Mailed: 03/13/2002

NOTICE OF INCOMPLETE REPLY (NONPROVISIONAL)

Filing Date Granted

The U.S. Patent and Trademark Office has received your reply on 01/24/2002 to the Notice to File Missing Parts (Notice) mailed 10/23/2001 and it has been entered into the nonprovisional application. The reply, however, does not include the following items required in the Notice.

The period of reply remains as set forth in the Notice. You may, however, obtain EXTENSIONS OF TIME under the provisions of 37 CFR 1.136 (a) accompanied by the appropriate fee (37 CFR 1.17(a)).

A complete reply must be timely filed to prevent ABANDONMENT of the above-identified application.

The required items noted below SHOULD be filed along with any items required above. The filing date of this nonprovisional application will be the date of receipt of the items required above.

- The signature of the following inventor(s) is missing from the oath or declaration:
Randy Jay McCoy
- Late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 was not received.
- **The balance due by applicant is \$ 130.**

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Substitute drawings in compliance with 37 CFR 1.84 because:
 - drawings submitted to the Office are not electronically reproducible. Drawing sheets must be submitted on paper which is flexible, strong, white, smooth, non-shiny, and durable (see 37 CFR 1.84(e));

*A copy of this notice **MUST** be returned with the reply.*

Cecilia Ma

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE